

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID E. WHITEHEAD and DEPARTMENT OF THE TREASURY,
CUSTOMS SERVICE, Lukeville, AZ

*Docket No. 99-1538; Submitted on the Record;
Issued August 14, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that his right shoulder condition is causally related to the April 15, 1996 employment injury.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not met his burden of proof.

On April 15, 1996 appellant, then a 49-year-old customs inspector, filed a claim for an employment-related right shoulder strain and right arm abrasions when he tripped and fell while pursuing a suspect on that date. He did not stop work. On September 3, 1998 he filed a second claim¹ and submitted medical evidence. In an attached statement, he indicated that the pain in his right shoulder had been continuous since the April 15, 1996 injury, that his doctor had diagnosed a rotator cuff tear and that he needed a magnetic resonance imaging (MRI) study. He did not indicate that he stopped work or sustained any wage loss due to the claimed condition. By letter dated October 7, 1998, the Office informed appellant of the type evidence needed to support his claim. This was to include a physician's opinion with supporting explanation regarding the causal relationship between his current condition and the April 15, 1996 employment injury. By decision dated November 9, 1998, the Office denied the claim on the grounds that the medical evidence failed to establish that his current condition was causally related to the employment injury. The instant appeal follows.

¹ While appellant submitted this claim on a Form CA-2, Notice of Occupational Disease and Claim for Compensation, the Office of Workers' Compensation Programs developed this as a recurrence claim.

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between his or her claimed condition and employment.² Causal relationship is a medical issue,³ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

The medical evidence submitted by appellant⁵ includes x-ray reports dated July 14, 1998 of the right shoulder that demonstrate degenerative changes in the acromioclavicular joint. In treatment notes dated May 19 and July 14, 1998, Dr. Warren Kuipers, a Board-certified family practitioner, noted findings of rotator cuff with limited range of motion and chronic pain which could indicate a rotator cuff tear and recommended that appellant undergo an MRI. None of these reports provided a cause of appellant's condition.

The Board finds that, as appellant failed to submit any medical evidence to indicate that his current condition is causally related to the April 15, 1996 employment injury, he has failed to establish the requisite causal relationship,⁶ and the Office properly denied his claim.

² *Donald W. Long*, 41 ECAB 142 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁴ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ Appellant also submitted evidence regarding the initial April 15, 1996 employment injury that is not relevant to his condition in 1998.

⁶ See *Mary J. Briggs*, *supra* note 3.

The decision of the Office of Workers' Compensation Programs dated November 9, 1998 is hereby affirmed.

Dated, Washington, D.C.
August 14, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member